

CHAPTER 16
TRADE AND LABOUR

Article 1
Objectives

The objectives of this Chapter are to:

- (a) promote the common aspiration that free trade and investment should lead to job creation, decent work and meaningful jobs for workers, with terms and conditions of employment that adhere to internationally recognised fundamental labour principles and rights;
- (b) promote, through cooperation and dialogue, better understanding of each Party's labour systems, sound labour policies and practices, and the improved capacity and capability of each Party to address labour issues;
- (c) promote the improvement of working conditions and living standards within the Parties, and protection and observance of fundamental labour principles and rights; and
- (d) enable the discussion and exchange of views on labour issues of mutual interest or concern with a view to reaching consensus on those issues.

Article 2

Key Commitments

1. The Parties respect the right of each Party to set, administer and enforce its own labour laws, regulations, policies and practices according to its priorities.
2. Each Party shall respect, promote and recognise in its laws, regulations, policies and practices, the following internationally recognised fundamental labour principles and rights:
 - (a) freedom of association and the effective recognition of the right to collective bargaining;
 - (b) the elimination of all forms of forced or compulsory labour;
 - (c) the effective abolition of child labour; and
 - (d) the elimination of discrimination in respect of employment and occupation.
3. Each Party shall not weaken, derogate from, or fail to enforce or administer in a sustained or recurring manner, its labour laws, regulations and policies in a manner affecting trade or investment between the Parties.
4. Each Party shall ensure that its labour laws, regulations, policies and practices are not set or applied for trade protectionist purposes.
5. Each Party shall ensure that the processes and institutions for the operation and enforcement of its labour laws, regulations, policies and practices, are appropriately accessible by persons with a recognised

interest under its law, fair and equitable and, except where the administration of justice otherwise requires, transparent.

6. The Parties recognise the desirability of clear, well understood and broadly consulted labour laws, regulations, policies and practices, and accordingly shall promote public awareness of their labour laws, regulations, policies and practices domestically.

Article 3

Institutional Arrangements

Contact Points

1. Each Party shall designate a contact point and inform the other Party of the identity of the contact point to facilitate communication between the Parties and to assist in the implementation of this Chapter, including coordination of labour cooperation activities pursuant to Article 4.

Meeting of the Parties

2. A meeting of the Parties, comprised of senior labour officials or such other persons as deemed appropriate by each Party, shall take place within the first year after this Agreement enters into force, and subsequently thereafter as mutually decided by the Parties.
3. The functions of the meeting of the Parties include, but are not limited to:

- (a) establishing, overseeing and evaluating the agreed cooperative activities;
 - (b) serving as a forum for dialogue on labour matters of mutual interest or concern;
 - (c) reviewing the operation and outcomes of this Chapter; and
 - (d) considering opportunities to collaborate on cooperative activities with other jurisdictions and organisations which both Parties are members of.
4. After three years, or as otherwise agreed, the Parties shall review the operation and outcomes of this Chapter, and may report the result of this review to the Joint Commission. This report may also be made public.

Public Participation

5. Each Party may, as appropriate, consult or seek the advice of relevant stakeholders or experts over matters relating to the implementation of this Chapter.
6. Each Party may provide an opportunity for its domestic stakeholders to submit views or advice to it on matters relating to the operation of this Chapter, and shall seek to inform its public of activities undertaken pursuant to this Chapter.
7. The Parties shall prepare a report on their work at the end of each meeting of the Parties. The Parties' report shall be made public, unless the Parties decide otherwise.

Article 4

Cooperation

1. The Parties agree to cooperate on mutually agreed labour issues, including through the interaction and involvement, as appropriate, of government, industry, educational and research institutions of each Party.
2. The Parties have established the following indicative list of areas of potential cooperation, which may be pursued directly between them, at regional and/or multilateral levels. The areas of cooperation may include:
 - (a) labour laws and practices, including the promotion of fundamental principles and rights at work and the concept of decent work as defined by the International Labour Organisation;
 - (b) compliance and enforcement systems; management of labour disputes;
 - (c) labour consultation; labour/management co-operation;
 - (d) occupational safety and health;
 - (e) human capital development, training and employability; and
 - (f) any other areas of cooperation agreed by the Parties.
3. The Parties may encourage and facilitate cooperative activities, as appropriate, through the following modes of cooperation:

- (a) exchanges of delegations, experts, scholars, teachers and instructors, including study visits and other technical exchanges;
 - (b) exchanges of information on standards, regulations and procedures and best practices to enhance mutual understanding of labour laws and institutions of the Parties;
 - (c) joint conferences, seminars, workshops, meetings, training sessions and outreach and education programmes;
 - (d) development of collaborative projects or demonstrations; and
 - (e) joint research projects, studies and reports.
4. Any cooperative activities agreed to shall take into consideration each Party's labour priorities and needs as well as the resources available. The resourcing of cooperative activities shall be decided by the Parties on a case by case basis.
5. Each Party may, as appropriate, invite the participation of its unions and employers or stakeholders in identifying potential areas for cooperation, and undertaking cooperative activities.

Article 5

Consultations

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Chapter, and shall make every attempt through dialogue, consultation and cooperation to resolve any issue that might affect its operation.

2. Should any issue arise in relation to the implementation of this Chapter, a Party may request consultations with the other Party, through the contact point. The contact point shall identify the office or official responsible for the issue and assist as necessary in facilitating communications between the Parties.
3. The Parties shall decide a timeframe for completion of consultations under paragraph 2 of this Article, which shall not exceed 180 days, unless otherwise mutually agreed.
4. As part of the consultations, the Parties may seek advice or assistance from any person or body they consider appropriate.
5. If consultations fail to resolve the matter, either Party may request through the contact point that a joint meeting of the Parties be convened to consider the matter. The joint meeting shall take place, at an appropriately senior level, as soon as practicable, no later than 90 days following the request. The contact points shall liaise to verify and prepare a summary of the facts in relation to the issue before the joint meeting.
6. To assist its deliberations the joint meeting may decide to request advice from an independent expert or experts.
7. The joint meeting shall produce a report providing conclusions and recommendations on resolving the issue. The Parties shall implement the conclusions and recommendations of the joint meeting as soon as practicable.
8. Should the joint meeting be unable to reach agreement on the report, or should either Party have concerns about the implementation of the

recommendations of the joint meeting, the issue may be referred to the Joint Commission for final consideration and resolution of the issue.

9. Neither Party may have recourse to Chapter 21 (Dispute Settlement) for any matter arising under this Chapter.